

Appl. No. 09/803,256
Response dated April 3, 2006
Reply to Office Action of February 3, 2006
Docket No. 6169-181

IBM Docket No. BOC9-2000-0040

REMARKS/ARGUMENTS

These remarks are made in response to the Office Action of February 3, 2006 (Office Action). As this response is filed within the 3-month shortened statutory period, no fee is believed due.

Claims 1-7, 9-23 and 25-29 were rejected at page 4 of the Office Action under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,490,443 to Freeny, Jr., (hereinafter Freeny) in view of U.S. Patent No. 6,498,180 to Borgstahl, *et al.* (hereinafter Borgstahl) and in further view of U.S. Patent Publication No. 2003/0061271 to Pittarelli (hereinafter Pittarelli). Claim 8 was rejected at page 21 under 35 U.S.C. § 103(a) as being unpatentable over Freeny and Borgstahl in further view of U.S. Patent No. 6,577,720 to Sutter (Sutter).

Applicants have amended independent Claims 1, 12, and 18 to further emphasize certain aspects of Applicants' invention. The claim amendments are supported throughout the Specification, as discussed herein. (See, e.g., p. 4, lines 1-13, and p. 13, lines 14-16.) No new matter has been introduced by virtue of the claim amendments presented.

Applicants' Invention

It may be useful at this juncture to reiterate certain aspects of Applicants' invention. One embodiment of the invention, typified by amended independent Claim 1, is a method for providing kiosk service offerings. The method can include retrofitting an existing, publicly-located, and fixed positioned kiosk with a wireless transceiver. The kiosk may have previously lacked wireless communication capabilities, and yet have previously been configured to communicate over an existing physical communications link medium.

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The method can further include configuring the kiosk with a new purpose, that of providing applications for performing electronic services over short-range radio communications links to wireless devices in a personal area network (PAN). Additionally, the method can include maintaining a list of available applications for performing electronic services. A portion of the available applications can be stored locally within the kiosk and a different portion of the available applications can be retrieved by the kiosk from an application service provider via the physical communications link.

The method also can include establishing a short-range radio communications link with a wireless device in the PAN, and receiving at the kiosk a request for particular ones of the available electronic services from the wireless device. The method further can include retrieving selected applications for performing the requested electronic services and delivering the requested electronic services to the wireless device over the short-range radio communications link. More particularly, the requested electronic services can be provided by conveying a retrieved application that then executes in the wireless device. Alternatively, or additionally, the requested electronic services can be provided by executing a retrieved application in the kiosk itself.

The Claims Define Over The Prior Art

As already noted, each of the independent claims were rejected as unpatentable over Freeny in view of Borgstahl and in further view of Pittarelli. Applicants respectfully maintain, however, that Freeny, Borgstahl and Pittarelli, both alone and in combination with one another, fail to teach or suggest each of the features recited in independent Claims 1, 12, 18, and 30.

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Retrieval of an externally stored application for execution in a wireless device

Each of the independent claims recites that requested electronic services can be provided to a wireless device by conveying to and executing in the wireless device one or more applications stored in a kiosk or retrieved by the kiosk from an application server. At pages 2-3 of the Office Action, in response to Applicants' earlier arguments, it is asserted that these features are disclosed in Freeny. The portion of Freeny cited in support of this assertion reads as follows:

"The invention also relates to a unique method for activating proximity service units 2920 wherein each proximity service unit 2920 provides a predetermined service in response to receiving a request authorization code. A plurality of the proximity authorization units 2910 are provided. Each proximity authorization unit 2910 is capable of storing the request authorization code and a preamble code, and outputting the request authorization code and the preamble code. The preamble code includes a request for application program code. The preamble code is output by one of the proximity authorization units 2910. The preamble code outputted by one of the proximity authorization units 2910 is received by at least one of the proximity service units 2920. The proximity service unit 2920, which received the preamble code, outputs the application program code stored by the proximity service unit 2920 in response to receiving the preamble code. The application program code is received by the proximity authorization unit 2910 outputting the preamble code. The proximity authorization unit 2910 then outputs the request authorization code using the application program code received by the proximity authorization unit 2910." (Col. 31, line 60 – Col. 32, line 14.)

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By implication in the Office Action, Freeny's proximity service unit is read as being analogous to the wireless device recited in the claims, while Freeny's proximity authorization unit is read as being analogous to the kiosk recited in the claims. Applicants respectfully assert that, even accepting as reasonable that these elements are analogous, Freeny, far from disclosing the recited features, in fact teaches the opposite of the features recited in the claims.

Freeny does not teach that applications that execute within a proximity service unit (read as Applicants' wireless device) are retrieved from the proximity authorization unit (read as Applicants' kiosk). Instead, as explicitly described in the above-quoted portion, the applications are already stored in the proximity service unit and only activated by a code received from the proximity authorization unit. This particular aspect of Freeny is recited throughout the reference. (See, e.g., Col. 31, lines 37-43; "[e]ach of the proximity service units 2920 provide a predetermined service when activated in response to receiving a request authorization code.")

The execution of an already-stored application in response to a received authorization code has nothing to do with requesting an electronic service from a kiosk and, in response to the request, receiving from the kiosk an application. More fundamentally, the pre-storing of an application in a wireless device (read as Freeny's proximity service unit) is the precise opposite of conveying to the wireless device an externally stored application that when executed in the wireless device provides a requested electronic service.

As recited in the independent claims, a wireless device requests an electronic service by sending a request to a kiosk. The request can cause the kiosk to retrieve an application stored locally at the kiosk or retrieved from a remote application server. Once retrieved, the application can be conveyed to the wireless device. When the application is executed within the wireless device the requested electronic service is

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provided. Freeny's activation of an already-stored application within a proximity service unit suggests none of these aspects of Applicants' invention.

Providing a requested electronic service to a wireless device
by executing a remotely stored application in a kiosk

The above-quoted portion of Freeny is also cited in support of the assertion that the reference discloses executing an application in a kiosk as further recited in each of the independent claims. Reading the independent claims as a whole, however, shows that with Applicants' invention a wireless device's request for an electronic service can also, or alternatively, result in a kiosk retrieving an application stored locally at the kiosk or remotely on an application server. Specifically, independent of where the application needed for providing the electronic service executes, it is not pre-stored on the wireless device. Rather, it must be retrieved by the kiosk in response to the request from the wireless device.

This feature is precisely the opposite of Freeny because in Freeny, as already noted, no application is requested. Instead, the application already resides on a proximity service unit (read as Applicants' wireless device). Retrieval of an application from a kiosk or server remote from the proximity service unit would be at best superfluous, and at worst wasteful and time consuming, since the application is already stored on proximity service unit. Freeny teaches only that the already-stored application is activated by a request from a separate unit, namely, the proximity authorization unit. Freeny's activation of an already-stored application, however, suggests none of the other features related to Applicants' invention.

Specifically, Freeny's remote activation of an already-stored application suggests nothing about a kiosk which retrieves a locally or remotely stored application in response to a request for electronic services from a wireless device. Moreover, as explicitly

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described in the reference, the application that is pre-stored in the proximity service unit also executes within the proximity service unit. Thus, not only is Freeny's application pre-stored rather than retrieved from the proximity authorization unit, but it does not execute within the proximity authorization unit. Accordingly, if the proximity service and authorization units are respectively read as being analogous to Applicants' wireless device and kiosk, then Freeny again teaches away from Applicants' invention. Specifically, Freeny teaches away from providing an electronic service by both storing remotely and executing remotely an application that provides the service. With Freeny, the application is both stored and executed on the proximity service unit rather than the proximity authorization unit, or by implication, on a wireless device rather than a kiosk.

None of the other references teach or suggest these features. Moreover, none of the other references were cited in connection with these features.

CONCLUSION

Accordingly, for the reasons stated herein, Applicants respectfully assert that none of the references, alone or in combination, teach or suggest every feature of independent Claims 1, 12, 18, and 30 and that the claims define over the prior art. Applicants further respectfully assert that, whereas each of the remaining claims depends from one of independent Claims 1, 12, 18, and 30 while reciting additional features, the dependent claims likewise define over the prior art.

Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the

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Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

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